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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,781	08/29/2003	Michael J. Oister	43108.830007.US2	3431

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HOLLAND & HART, LLP  
555 17TH STREET, SUITE 3200  
DENVER, CO 80201

EXAMINER
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CHIU, RALEIGH W

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/652,781

**Applicant(s)**

OISTER ET AL.

**Examiner**

Raleigh Chiu

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-8,18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8,18 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

1. In view of the reconsideration to U.S. Patent Number 6,773,010 and newly-discovered U.S. Patent Number 5,242,164, the following rejections follow. The delay in the application of the patents is regretted.

#### *Claim Rejections - 35 USC § 102 and 103*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,773,010 (Zucchi et al., hereinafter Zucchi).

Regarding claim 1, Figure 1 of Zucchi shows a tabletop game with a playing surface 40 and sidewall 28. Figures 7A-7C best shows playing surface 40 having a base 26. Playing surface 40 further is described to be capable of being semi-transparent in portions and/or printed upon. See column 4, lines 11-23.

Because the playing surface is not completely transparent, light is inherently able to be reflected. To the extent that Zucchi fails to explicitly disclose an upper light source, one of ordinary skill in the art would realize the uselessness of playing the game in the dark; rooms are well-known in the art to have overhead lighting.

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Regarding claim 2, Zucchi also discloses that portions of the playing surface can be transparent. Again, see column 4, lines 11-23. A transparent surface is considered to be light-transmissive and therefore non-reflective.

Regarding claim 3, Zucchi discloses an embodiment for a soccer game table. See column 3, lines 54-56.

Regarding claim 5, Zucchi discloses the combination of having different portions of the playing surface having different reflectivities, i.e., some portions transparent, some semi-transparent, colored, etc. Again, see column 4, lines 11-23.

Regarding claims 6 and 7, it would have been an obvious matter of design choice to provide a plurality of non-contiguous reflective surfaces on the Zucchi game, since applicants have not disclosed that having this specific arrangement solves any stated problem or is for any particular purpose and it appears the game would perform equally well with the reflective surface arranged in any manner on the game base.

With further regard to claim 7, a transparent portion in the playing surface is considered to be light-transmissive.

Regarding claim 8, a completely non-transparent playing surface is considered to reflect light over the entire playing surface.

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6. Claims 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 5,242,164 (Nicoll).

Regarding claim 18, Figure 1 of Nicoll shows a tabletop game having a playing surface having a design 16 of a hockey rink. Nicoll also discloses a coating such as fluoropolymer covering the playing surface. See the bridging paragraph between columns 2-3. Because fluoropolymers are known to provide a glossy sheen, such a glossy surface is considered to correspond to the recited playing surface brightening means.

Regarding claim 20, the gloss of the polymer coating is also considered to inherently provide a level of reflectivity.

### **Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (571) 272-4408. The examiner can normally be reached on Monday-Thursday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich, can be reached on (571) 272-4415.

The fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through

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Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Raleigh W. Chiu', with a stylized flourish at the end.

Raleigh W. Chiu  
Primary Examiner  
Technology Center 3700

RWC:dei:feif  
22 December 2004